

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

03-CR-75-A

ANTHONY TOLBERT,

Defendant.

ORDER

On November 17, 2008, this Court ordered that the defendant, ANTHONY TOLBERT, undergo a psychiatric or psychological examination and evaluation in order for the Court to make a determination as to his mental competency and his ability to understand the nature and consequences of the proceedings against him and to properly assist in his defense.

At that time, this Court further ordered the U.S. Marshals Service to make appropriate arrangements to transport the defendant to a suitable facility as that term is defined in Title 18, United States Code, Section 4247(a)(2) for purposes of being examined and evaluated.

On December 17, 2008, Marie Grisanti, Assistant U.S. Attorney appeared for the government and Roxanne Mendez Johnson appeared on

behalf of the defendant. The government advised the Court that the defendant continued to refuse to leave his cell and threatened to fight anyone who attempted to remove him from his jail cell. The government also advised the Court that the defendant had assaulted a correctional officer without provocation on September 24, 2008 at the Buffalo Federal Detention Center while being held on this charge.

Dr. Bailey, a physician from the Buffalo Federal Detention Center, appeared via telephone and advised the Court that the defendant was psychotic and recommended that the defendant be given anti-psychotic medication in order to transport him to an appropriate facility for the competency examination. Dr. Bailey advised the Court about possible side effects to the medication, and advised the Court that if a nurse was ordered to travel with the defendant, the nurse would be carrying medication in case the defendant had any reaction to antipsychotic medication. The Court was advised that the antipsychotic medication is administered by injection.

FINDS that the defendant is a danger to himself or to others and that treatment with the antipsychotic medication is in his best interests.

FINDS that a less intrusive means is unlikely to be effective and that this treatment is medically appropriate.

ORDERED a nurse accompany the defendant during the transport for his competency evaluation;

ORDERED that the nurse monitor defendant's condition until he is accepted at the treatment facility.

ORDERED that the defendant be forcibly medicated as deemed necessary by the nurse accompanying the defendant during the transport.

SO ORDERED.

s/ Richard J. Arcara
HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: December 18, 2008